

**U S Army Corps
of Engineers**
Huntington District

Public Notice

In reply refer to Public Notice No.

LRH-2006-533-WAB

Issuance Date:

November 21, 2008

Stream:

Grand Lake St. Marys

Closing Date:

December 22, 2008

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-OR-F Public Notice No. (*reference above*)

502 Eighth Street

Huntington, West Virginia 25701-2070

Phone: (304) 399-5210

PUBLIC NOTICE: The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

REGULATORY PROGRAM: Since its early history, the U.S. Army Corps of Engineers (Corps) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the Corps Regulatory Program.

SECTION 10: The Corps is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition or capacity of navigable waters of the United States (U.S.). The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

SECTION 404: The Corps is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act. This notice serves as the Corps of Engineers' request to the Ohio Environmental Protection Agency to act on Section 401 Water Quality Certification for the following application.

APPLICANT: Southshore Acres, Inc.
1901 North Roselle Road, Suite 711
Schaumburg, Illinois 60195

LOCATION: The proposed project is located on the southern shore of Grand Lake St. Marys and its adjacent wetlands just east of the Mercer-Auglaize County line, off Koehn Road in Auglaize County, Ohio. Latitude 40° 30' 30", Longitude 84° 27' 15".

PROJECT HISTORY: This proposal was previously announced by Public Notice 200501588, issued on February 22, 2006 by the Louisville District of the U.S. Army Corps of Engineers, with project clarifications announced by Public Notice LRH-2006-533-WAB, issued on May 23, 2007 by the Huntington District. The original proposal was withdrawn and has been modified to reduce impacts to Grand Lake St. Marys. The purpose of this Notice is to provide updated project information on the revised application.

DESCRIPTION OF PROPOSED WORK: The applicant proposes to place fill material in waters of the United States in conjunction with the construction of Water Color Estates single family residential housing development. According to the applicant, the purpose of the work is to construct a housing development that includes common areas, individual lots and channels to the lake with other attendant features including roads, utilities, seawalls and boat slips. Approximately 3,100 cubic yards of clean native soil consisting of a mix of gravel, sand, silt and clay would be placed into 0.24 acre emergent, 0.45 acre scrub-shrub and 1.23 acres of forested wetlands (1.92 acres total) in association with fill and grading activities for lot development and road construction. In addition, the applicant proposes to place approximately 2,000 cubic yards of a mixture of native soil and gravel into just under 1 acre of Grand Lake St. Marys to construct an even shoreline and relocate an existing channel. An estimated 500 cubic yards of rip rap would be placed along the new shoreline and 200 cubic yards of concrete would be placed along existing channels for the construction of seawalls.

Updated plans of the proposal are attached to this notice.

COMPENSATORY MITIGATION PLAN: To offset wetland impacts associated with the project, the applicant proposes both onsite and offsite mitigation. Onsite, the existing 2.22 acres of forested wetland and a 1 acre pond located within the 6-acre parcel of land south of Koehn Road would be placed into preservation. The remaining 2.78 acres would be preserved as upland buffer to the wetland. Just offsite, the applicant proposes mitigation on a 5-acre parcel of fallow cropland containing 1.11 acres of emergent wetlands adjacent to Little Chickasaw Creek north of State Route 219 and just west of Mercer Auglaize County Line Road in Mercer County, Ohio. The applicant proposes to rehabilitate the existing 1.11 acres of emergent wetlands by planting varieties of willow, oak and maple to repair the wetland's historical function as a forested wetland, similar to the forested wetland just north of the property. In addition, the applicant proposes to re-establish 1.9 acres of wetlands. To improve hydrology, the applicant proposes to crush or remove any drainage tiles onsite and excavate higher points to create a gentler slope and match the elevation of the existing wetlands. Hydric topsoil removed during grading would be stockpiled for redistribution prior to planting the site with trees, shrubs and emergent vegetation relocated from the project site. Additional trees and shrubs would be planted to supplement the recovered vegetation. The applicant proposes to create 50-foot upland buffers along the south and east; a scrub-shrub community exists to the west and an existing forested wetland is located

just north of the site. The wetlands and buffer would be protected in perpetuity through a conservation instrument held by an independent third party.

To offset impacts to Grand Lake St. Marys, the applicant proposes to extend existing channels and create shallow lake habitat in the backwaters of the proposed channels. The applicant proposes to plant *Nymphae* species in these shallow areas.

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain certification from the Ohio Environmental Protection Agency.

ALTERNATIVES ANALYSIS: A total of 1.92 acres of jurisdictional wetlands would be filled as a result of the proposal. The project does not require access or proximity to or siting within the wetlands to fulfill its basic purpose and is considered a non-water dependent activity. The Section 404(b)(1) Guidelines state that for non-water dependent activities, practicable alternatives that do not involve wetlands are presumed to be available, unless clearly demonstrated otherwise. The applicant is required to provide an alternatives analysis that must overcome the presumption prior to receiving authorization for the placement of fill material.

HISTORIC & CULTURAL RESOURCES: The National Register of Historic Places has been consulted and it has been determined there are no properties currently listed on the Register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archaeological, scientific, pre-historical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515). A copy of this public notice will be furnished to the State Historic Preservation Office for their review. Comments concerning archaeological sensitivity of the project area should be based on collected data.

THREATENED & ENDANGERED SPECIES: The project is located within the known or historic range of the following candidate, threatened, or endangered species: Indiana bat (Endangered). To determine if the proposed project would have any effect on threatened or endangered species, the applicant previously consulted the United States Fish and Wildlife Service (USFWS). Information provided by the USFWS indicates that habitats that may be suitable for the Indiana bat are located onsite. The applicant proposes to minimize potential impacts to this species by ensuring that any suitable roosting trees that must be cut will be cut outside of the roosting period of April 1 to September 30. Provided this measure is implemented, this office has determined the proposed project may effect, but not likely to adversely affect the Indiana bat. This public notice serves as a request to the USFWS for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity. This application will be reviewed in accordance with 33 CFR 320-332, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b) (1) of the CWA. Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

SOLICITATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to: Ms. Denise Marmer, Project Manager, North Regulatory Section, CELRH-OR-FN, USACE Huntington District, 502 Eighth Street, Huntington, West Virginia 25701-2070. Please note names and addresses of those who submit comments in response to this public notice become part of our administrative record

and, as such, are available to the public under provisions of the Freedom of Information Act. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please contact Ms. Denise Marmer of the North Regulatory Section, Cincinnati Regulatory Field Office, at 513-825-4518.

A handwritten signature in cursive script, reading "Ginger Mullins".

Ginger Mullins
Chief, Regulatory Branch

(O) (L)

GRADING PLAN ON PROPOSED NEIKAMP PROPERTY WETLAND MITIGATION

SECTION 24, TOWN 6 SOUTH, RANGE 3 EAST,
FRANKLIN TOWNSHIP, MERCER COUNTY, OHIO

LEGEND

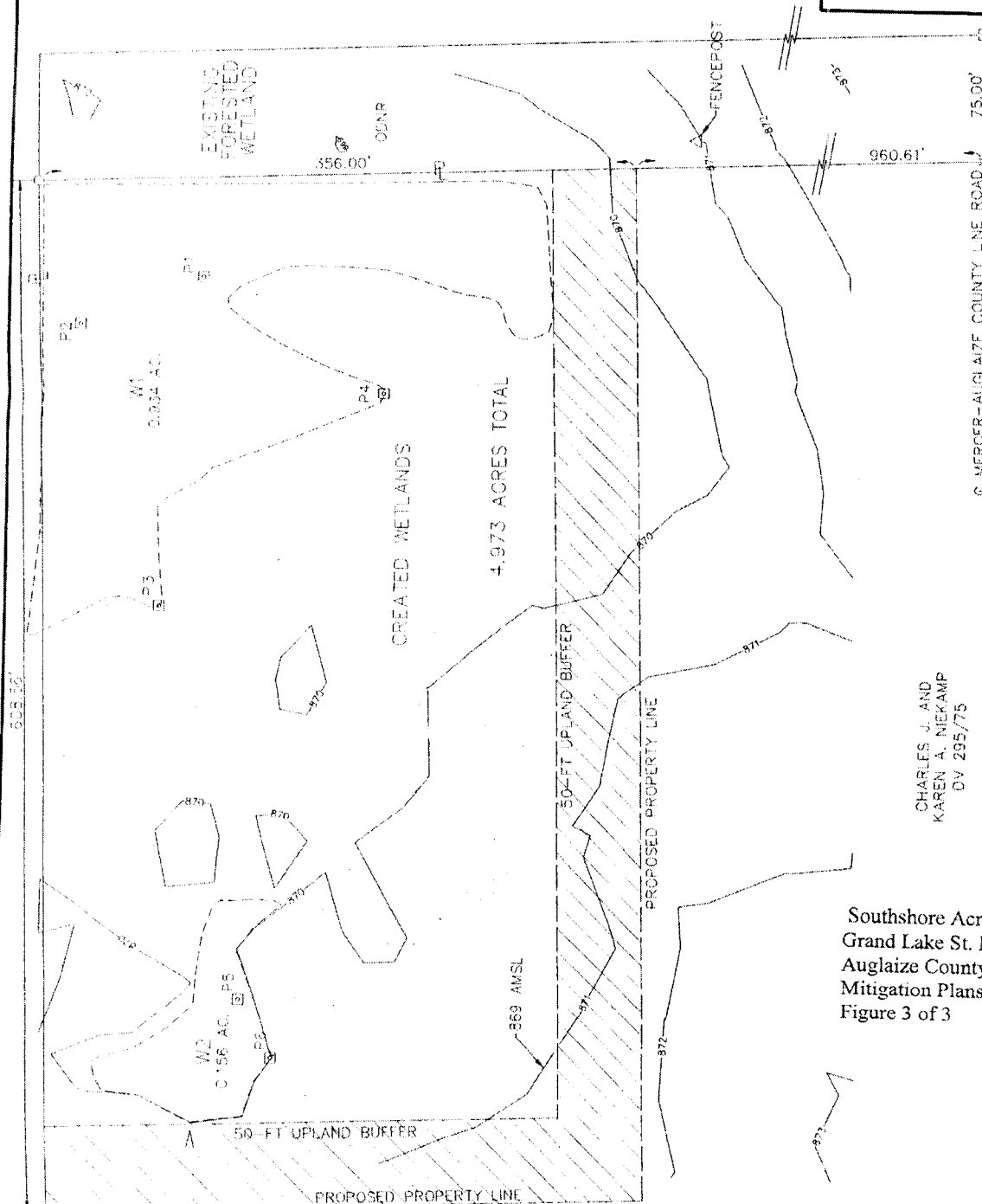
- CIL PIN FLAG FOUND
- IRON PIN FOUND
- ✱ GIN SPINDLE FOUND
- ⊞ MONUMENT BOX
- ⊞ W/STONE FOUND

- EXISTING WETLANDS TO BE RESTORED
- ▭ CREATED WETLANDS
- ▨ 50-FOOT UPLAND BUFFER



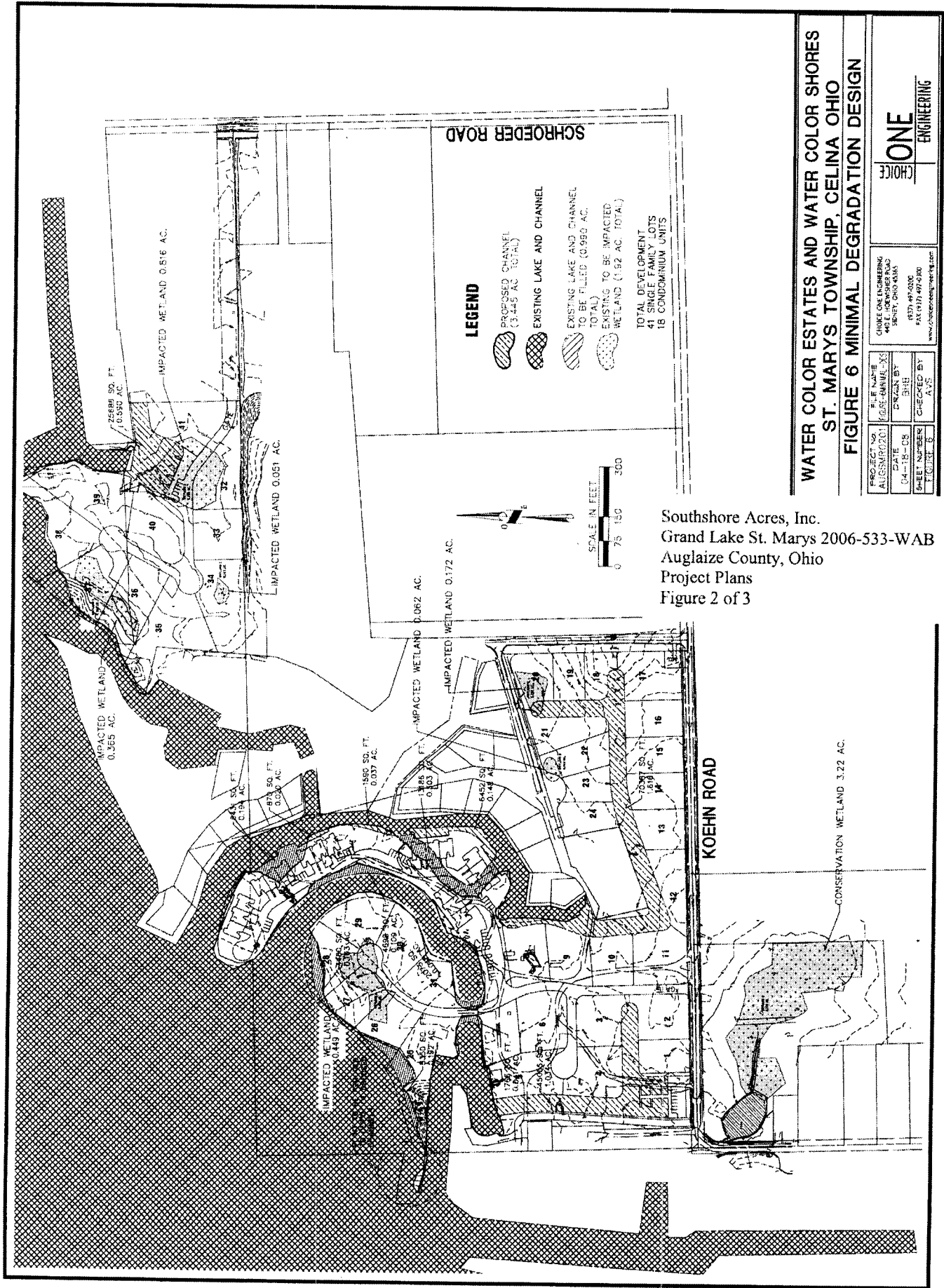
ONE	DATE:	04-02-2007
	DRAWN BY:	wdg
	JOB NUMBER:	AUCSMR0201
	SHEET NUMBER	1 OF 1

440 E. HOEWISHER ROAD, SIDNEY, OHIO 45365
(937) 497-0200 FAX (937) 497-0300
www.choiceengineering.com



CHARLES J. AND
KAREN A. NIEKAMP
DV 295/75

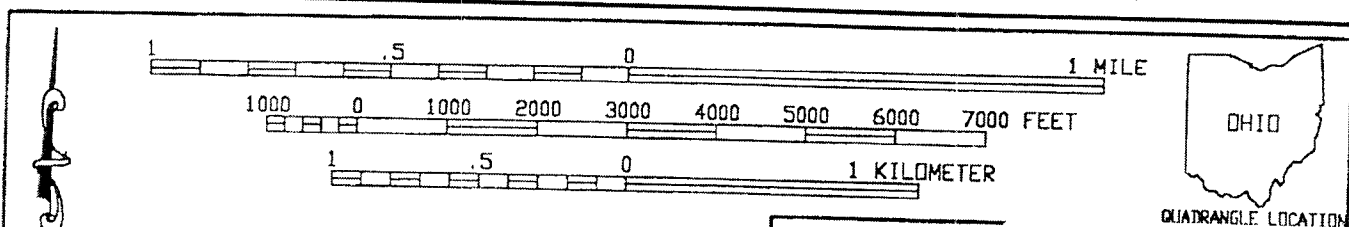
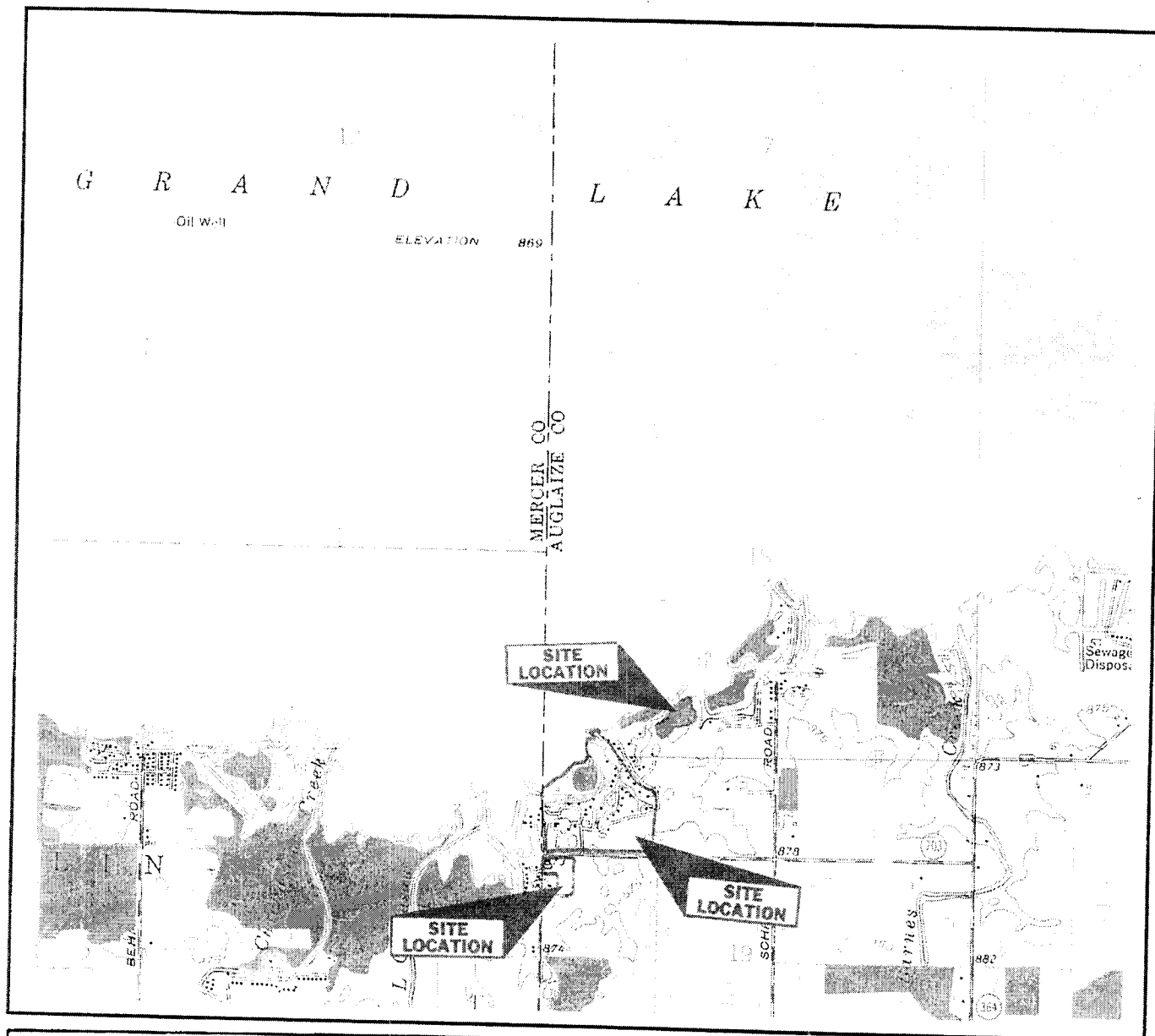
Southshore Acres, Inc.
Grand Lake St. Marys 2006-533-WAB
Auglaize County, Ohio
Mitigation Plans
Figure 3 of 3



Southshore Acres, Inc.
Grand Lake St. Marys 2006-533-WAB
Auglaize County, Ohio
Project Plans
Figure 2 of 3

**WATER COLOR ESTATES AND WATER COLOR SHORES
ST. MARYS TOWNSHIP, CELINA OHIO
FIGURE 6 MINIMAL DEGRADATION DESIGN**

PROJECT NO. AUGLAIZE/201	FILE NAME 1606-00001-XS	CHOICE ON-ENGINEERING 440 E. JOHNSHIRE ROAD SENEY, OHIO 43085 (615) 497-0000 FAX (615) 497-0000 www.choiceonengineering.com	CHOICE ONE
DATE 04-18-08	DRAWN BY BHE	CHECKED BY AVS	ENGINEERING
SHEET NUMBER FIGURE 6			



CONTOUR INTERVAL - 5 FEET
DATUM IS MEAN SEA LEVEL



Southshore Acres, Inc.
Grand Lake St. Marys 2006-533-WAB
Auglaize County, Ohio
Location Map
Figure 1 of 3

GENERAL LOCATION
ST. MARYS, OHIO QUADRANGLE
1960
7.5 MINUTE SERIES (TOPOGRAPHIC)

DATE
7/14/04
SCALE
As Shown
DRAWN BY
Dept. 51

SOUTHSHORE ACRES
Permitting / Mitigation
Water Color Estates
Grand Lake / Koehn Road
Auglaize County, Ohio

Figure No.
1

Project No.
04550145

